UNITED
NATIONS

HRI

International
Human Rights
Instruments

Distr.
GENERAL

HRI/CORE/1/Add.33/Rev.1
5 July 2001

Original: ENGLISH

CORE DOCUMENT FORMING PART OF THE REPORTS OF STATES PARTIES

New Zealand

[7 March 2001]

I. LAND AND PEOPLE

Land

1. New Zealand, situated in the south-west Pacific Ocean, midway between the Equator and the South Pole, is made up of two main islands - the North and South Islands - and a number of smaller islands. Its total land area is 268,021 sq km (i.e. similar in size to Japan or the British Isles). New Zealand's largest neighbours are New Caledonia, Fiji and Tonga to the north, and Australia to the west. It is an area of the world characterized by active volcanoes and frequent earthquakes. The boundary between the Indo-Australian plate and the Pacific plate runs through New Zealand and the processes from the collisions have had a profound effect on New Zealand's size, shape and geology. The Southern Alps of the South Island, which rise amid permanent snow fields and many glaciers, include 19 peaks exceeding 3,000 metres. The two main islands cover 1,600 km from the northern tip to the southern extremity, with no part more than 120 km from the surrounding ocean. The long coastline and the distance from the nearest neighbouring countries contribute to giving New Zealand the fourth largest maritime Exclusive Economic Zone in the world. The Ross Dependency in Antarctica is also part of New Zealand.

2. New Zealand has jurisdiction over the non-self-governing Territory of Tokelau. It takes seriously its obligation under the Charter of the United Nations to develop self-government in Tokelau, with a view to the exercise of self-determination. New Zealand provides for the preparation of reports in respect of Tokelau. Tokelauans, Niueans and Cook Islanders are all New Zealand citizens. Niue and the Cook Islands are self-governing States in free association

with New Zealand. Under the free association relationships, the Governments of Niue and the Cook Islands have full legislative and executive powers. While New Zealand retains responsibility for the external affairs and defence of both countries, these responsibilities confer on New Zealand no rights of control and are only exercised at the express request of the Niue or Cook Islands Governments. Niue and the Cook Islands have full competence for the implementation of their obligations under the international human rights instruments and therefore are responsible for the preparation of the relevant reports. New Zealand has, in the past, provided assistance with these.

History

3. The first Polynesian settlers are believed to have arrived in Aotearoa/New Zealand more than 1,000 years ago. Maori settlements were scattered over most of the country by the twelfth century. In 1642, Aotearoa was sighted by the Dutch navigator, Abel Tasman, but it was a further 127 years before the British naval captain, James Cook, became the first European to set foot in New Zealand, in 1769. Organized European settlement began in the mid-nineteenth century.

4. In 1840 the Treaty of Waitangi was signed between iwi Maori (the indigenous tribes of New Zealand) and the British Crown. This treaty is the founding document of modern New Zealand.

Main ethnic and demographic characteristics

5. New Zealand has passed through a demographic transition similar to that experienced by other developed countries. The population has become highly urbanized, the average family size is slowly declining and the number of elderly is increasing. Slow population growth is projected and steady ageing of the population will continue. A particular characteristic of the New Zealand experience is the growing diversity of ethnic groups, those of non-European descent making up a growing proportion of the resident New Zealand population.

Population

6. New Zealand's resident population was 3.62 million at the time of the last five-yearly census in 1996. The population density is 14.15 per sq km. New Zealand's resident population at 30 June 1998 was estimated to be 3,792,000.

Ethnic composition

7. New Zealanders of European descent or born in Europe made up 74.8 per cent of the resident population in the 1996 census; 15.1 per cent of the population were New Zealand Maori. The majority of the remainder were categorized as Pacific Island Ethnic Group (5 per cent) or Asian Ethnic Group (4.6 per cent).

8. A breakdown of the population by main ethnic group follows. The table compares the 1986, 1991 and 1996 Census results. People were asked to which ethnic group(s) they belonged. They could tick as many of the standard groups they wanted and if those were not

sufficient could print their own group(s). Over 15 per cent of New Zealand residents indicated that they belonged to more than one ethnic group in Census 1996. Twenty-three per cent of children under five belonged to more than one ethnic group at that Census. It is important to note that part of the growth and decline in ethnic groups' relative size may be attributed in part to how New Zealanders identify with more than one ethnic group. In 1996, over 15 per cent of New Zealanders indicated that they belonged to more than one ethnic group, compared to only 5 per cent in 1991. Some of this increase is likely to be the result of the rewording of the census ethnic questions, which encouraged respondents to give multiple responses.

9. When counting responses as to groups, some people can be counted up to three times. In the following table, Ethnic Group is classified by prioritizing responses in an hierarchy totalling to 100 per cent. The hierarchy runs New Zealand Maori - Pacific Island - Asian - Other - European. The table excludes people who did not specify an ethnic group or whose response could not be identified.

Ethnicity[a] and Sex

of the population resident in New Zealand, 1986, 1991 and 1996

Ethnicity and sex	Census			Percentage of New Zealand population		
	1986	1991	1996	1986	1991	1996
	Number			Per cent		
Total European						
Male	1 311 450	1 308 426	1 270 035	82.00	79.38	74.79
Female	1 339 260	1 349 193	1 324 644	82.30	79.48	74.90
Total	2 650 710	2 657 619	2 594 694	82.15	79.43	74.85
New Zealand Maori						
Male	201 897	214 431	258 000	12.62	13.01	15.19
Female	202 878	220 419	265 374	12.47	12.98	15.01
Total	404 778	434 847	523 371	12.54	13.00	15.10
Pacific Island						
Male	59 814	75 309	85 110	3.74	4.57	5.01
Female	59 556	77 634	88 068	3.66	4.57	4.98
Total	119 367	152 934	173 184	3.70	4.57	5.00
Asian						
Male	24 147	46 638	77 115	1.51	2.83	4.54
Female	23 865	47 427	83 568	1.47	2.79	4.73
Total	48 006	94 065	160 683	1.49	2.81	4.64
Other						
Male	2 055	3 441	7 836	0.13	0.21	0.46
Female	1 800	2 907	6 828	0.11	0.17	0.39
Total	3 858	6 342	14 667	0.12	0.19	0.42

Ethnicity and sex	Census			Percentage of New Zealand population		
	1986	1991	1996	1986	1991	1996
	Number			Per cent		
Total New Zealand resident population excluding not specified etc.						
Male	1 599 369	1 648 236	1 698 099			
Female	1 627 353	1 697 577	1 768 488			
Total	3 226 722	3 345 813	3 466 587			
Total New Zealand resident population						
Male	1 616 667	1 662 552	1 777 461			
Female	1 646 616	1 711 374	1 840 839			
Total	3 263 286	3 373 926	3 618 303			

* 1986 data is ethnic origin and not ethnicity.

All cells in this table have been randomly rounded to base 3.

10. On a total response basis, the single ethnic groups with the largest numeric change between the 1991 and 1996 Censuses were English, up 228,570, and New Zealand European, down 121,893. Changes smaller in numeric scale but larger in proportion occurred to other Western European groups. None of these rises in individual groups can be accounted for from the natural processes of births plus net migration less deaths. The New Zealand Maori group rose by 88,527, at least partly as a result of people re-identifying themselves as Maori.

11. There has been a significant increase in the number of new immigrants (people born overseas and not resident at the previous Census) living in New Zealand. This group increased to 164,500 at Census 1996, an increase of almost 45 per cent over the 1991 total of 113,800 and more than twice the number recorded 10 years earlier at the 1986 Census (80,100).

12. Asia has replaced the United Kingdom and Ireland as the main source of new immigrants over the past 10 years. In 1986, the three main source areas for new immigrants were: the United Kingdom and Ireland (30.4 per cent), the Pacific (19.4) and Australia (15.1). By 1996 the top three source areas were Asia (40.8 per cent), the United Kingdom and Ireland (17.0) and the Pacific (10.1).

13. There have also been some important compositional changes in the source countries of Asian-born immigrants over the last 10 years. In 1986, Cambodia, China, India, Japan and Malaysia accounted for more than half of all Asian-born immigrants. By 1996 almost two thirds of Asian-born migrants came from the Republic of Korea, China, Taiwan, Hong Kong and Malaysia.

Sex of the population

14. Women made up 50.7 per cent of the resident population in 1998. Projections indicate that women will continue to outnumber men into the next century. Migrant-sourced ethnic groups show large variations in sex ratios.

Age of the population

15. In 1998, 22.6 per cent of the resident population of New Zealand were children under 15 years of age, 65.6 per cent of the population were aged 15 to 64, and 11.7 per cent were aged 65 years and over. The median age was 33.6 years.

Age differences in ethnic groups

16. The median age for the total New Zealand population is 33.6 years. All of the European ethnic groups have median ages higher than this with the British/Irish group being the oldest at 47.8 years. The older age structure of the European groups in New Zealand is a reflection of the fact that many of their members migrated to New Zealand following the Second World War and that their children possibly no longer identify with the ethnic group of their parents.

17. Tongans have the youngest median age for Pacific Island groups at 21.1 years, while the median age for New Zealand Maori is 21.4 years. Fijians have the oldest median age among Pacific Island groups at 26 years. More than one third of Pacific Island people in New Zealand are children while only 3.2 per cent are aged 65 years or over. New Zealand Maori have a similar age distribution, with 37.5 per cent aged less than 15 years and only 3.0 per cent aged 65 years or over.

18. Asian and "other" groups also have younger populations than the European groups, with median ages between 23.3 and 32.1 years. The Japanese have the lowest median age among Asian groups and Sri Lankans the oldest. Many Asians are recent migrants to New Zealand who tend to be concentrated in the young-adult age groups. More than half (57.6 per cent) of Asians are aged 15 to 44 years, while a quarter (25.2 per cent) are under 15 years and only 3.2 per cent aged 65 years or over. In comparison, 45.4 per cent of all New Zealanders are aged 15 to 44 years, while 23 per cent are children and 11.7 per cent are aged 65 years or over.

19. In 1996 the median age for New Zealand females was 33.6 years, compared with 32.2 years for males. Maori and Pacific Island females were younger in comparison to all females, with median ages of 22.2 years and 21.3 years respectively, whereas the median age for Asian females in 1996 was 27.6 years.

20. The European female population has a much higher proportion of older women, with 14.8 per cent 65 or over, compared with only 3.3 per cent in the Maori, Pacific Island and Asian groups. Conversely, Maori and Pacific Island females are far more likely to be aged under 15 years, with 36.1 per cent and 37.6 per cent respectively, compared with 20.7 per cent of European females. Asian females are concentrated in the working-age groups, with 71.9 per cent aged between 15 and 64 years in 1996.

Economy

21. New Zealand is a developed country with a market economy dependent on overseas trade. Since the 1980s, New Zealand, like many other countries, experienced a sustained period of rather flat economic activity, followed by cautious and uneven growth since 1993. By most measures, living standards remained reasonably high, though these economic difficulties and changing patterns of global trade led to a decline in per capita incomes.

22. In 1984, a major economic liberalization programme was initiated. Economic policy has been significantly reorientated towards establishing a market-oriented economy and redressing macroeconomic imbalances. Structural reform was rapid and broad-based and has been accompanied by a medium-term anti-inflationary financial strategy. The repercussions of structural reforms have been pronounced. One consequence of the adjustment process was a significant medium-term fall in employment.

23. New Zealand's small economy is dependent on overseas trade. Traditionally, a large proportion of New Zealand's exports, mainly agricultural products, went to the United Kingdom. In the past 20 years, however, New Zealand has adapted to a changing world, so that Asia is now more dominant. Our largest export markets are Australia, Japan, the United States of America, the United Kingdom and the Republic of Korea. New Zealand has developed its agriculture and manufacturing industries to suit the needs of niche markets. This has meant that New Zealand has moved away from its dependence on dairy, meat and wool exports as forestry, horticulture, fishing and manufacturing have become more significant. Tourism has increased in importance. The New Zealand Tourism Board estimates that in the year to June 1998 international tourism contributed NZ$ 3.068 billion to the economy, or about 3.4 per cent of GDP, excluding international airfare revenue.

Per capita income

24. The median annual gross income in 1996 was NZ$ 17,058 for New Zealand Europeans and NZ$ 12,864 for New Zealand Maori. There were also large differences in men's and women's annual incomes. In 1996, men had a median annual income of $22,041 and women $12,609. A comparison of average ordinary time hourly rates from the Quarterly Employment Survey indicates that as at November 1998 women were earning approximately 84 per cent of men's rates.

Gross domestic product

25. GDP for the year ending March 1998 was NZ$ 98,247 million, a 3.2 per cent increase on the 1997 figure.

Rate of inflation

26. In March 1999, the annual rate of inflation was down to -0.1 per cent. New Zealand currently has one of the lowest inflation rates of OECD countries.

External debt

27. Total overseas debt at 31 March 1998 stood at NZ$ 98,998 million. Of this NZ$ 19,969 million was government debt.

Rate of unemployment

28. The official number of unemployed as at the March quarter of 1999 stood at 135,000, or 7.6 per cent of the labour force. (The official unemployed are defined as those out of work, actively seeking work and available for work.) Of this total, 79,000 were males (or 6.7 per cent of the male labour force) and 56,000 were females (or 7.2 per cent of the total female labour force). Both New Zealand Maori and Pacific Islanders have proportionally much higher levels of unemployment, especially in the 15 to 19 age groups. The total number of Maori unemployed stood at 32,000 (or 19 per cent of the total Maori labour force) and the total number of Pacific Islanders unemployed was 12,400 (or 14.5 per cent of the total Pacific Islands labour force in New Zealand).

Literacy rate

29. New Zealand has no official measure of adult literacy, but is internationally recognized as having a high level of literacy for both men and women. English language courses for new immigrants are widespread and English as a second language courses are offered in a number of secondary schools. Adult Reading and Learning Assistance Federations (ARLA) provides tuition to over 4,000 adults nationally, one third of whom are women. Literacy programmes are also run in New Zealand prisons.

Religion

30. In 1996 most New Zealanders showed an affiliation to Christianity; 57.4 per cent specified a Christian denomination (compared with the 1991 figure of 65.2 per cent). The major denominations were Anglican 17.5 per cent (22.1 per cent), Presbyterian 12.7 per cent (16.3 per cent) and Catholic 13.1 per cent (15 per cent).

31. The next largest group were the "No's": those who objected to answering, specified "no religion" or agnostic or atheist, or did not specify. This group comprises 36.9 per cent (compared with 29 per cent in 1991). "No religion" was the largest single group, rating 24 per cent (19.8 per cent).

32. Eastern Religions were the choice of 2.3 per cent (compared with 1.2 per cent in 1991). These included Buddhism at 0.8 per cent (0.4 per cent), Hinduism at 0.7 per cent (0.5 per cent), Islam at 0.4 per cent (0.2 per cent), Judaism at 0.1 per cent and Other Eastern at 0.3 per cent.

Language

33. English is the principal language used by the majority of the population and in public life. Maori is the language of the tangata whenua (the indigenous people) of New Zealand. It is a taonga (treasure) under the terms of the Treaty of Waitangi and became an official language of

New Zealand by virtue of the Maori Language Act 1987. The Act also provides that people may speak Maori in any legal proceedings and that a competent interpreter may be made available. The curricula of many schools contain programmes for the instruction of the Maori language. Students whose mother tongue is a Pacific Island language or another community language are also to be given the opportunity to develop and use their own language as an integral part of their schooling.

34. Almost all (96.3 per cent) New Zealand Europeans speak only one language, predominantly English. In 1996, some 4.6 per cent of New Zealanders and 26.1 per cent of New Zealand Maori said that they could have a conversation in Maori.

Life expectancy

35. Life expectancies at birth for 1995-1997 were as follows:

Non-Maori females	80.6 years
Maori females	71.6 years
Non-Maori males	75.3 years
Maori males	67.2 years

36. Cancer and diseases of the circulatory system (in that order) continue to be the leading causes of death and account for 7 out of 10 of all deaths among the adult population in any year. Respiratory diseases cause another 11 per cent of deaths.

Infant mortality

37. The infant mortality rate was 6.54 per 1,000 live births for the calendar year 1997. Neonatal mortality accounted for almost half of the infant mortality rate (3.4 deaths per 1,000 live births).

Direct maternal deaths

38. The rates for direct maternal deaths (i.e. due to complications of pregnancy, childbirth and the immediate post-partum period) fluctuate markedly from year to year due to the small number of deaths. The rate per 100,000 live births in 1994 was 7, but that rate for 1995 was 3.5.

Fertility rate

39. Live births registered in the calendar year 1997 totalled 57,266. Average family size as implied by the total fertility rate (TFR) stood at 1.97 births per woman, which is below replacement level. The average age of New Zealand women giving birth in the September 1998 year was 28.9 years. There has been a long-term trend away from early childbearing. A cohort analysis shows that the estimated median age at childbearing was 27.7 years for women born in 1962, compared with 25.4 years for women born in 1952. The total fertility rate for Maori was approximately 48 per cent higher than for their non-Maori counterparts in 1996. (Note that from 1 September 1995 a new ethnic question was asked on the birth registration form. This

new question was based on the concept of self-identification, rather than the previous degree-of-blood question. As a result, any change in patterns could reflect definitional changes rather than an actual change in fertility.) The median childbearing age for Maori women in 1997 was 25.35 years compared with 29.89 years for non-Maori.

Age distribution

40. Both the 1996 Census and the latest estimates show that the ageing of the New Zealand population is continuing slowly. The median age at 31 March 1998 was 33.6 years, compared with 33.2 years at 31 March 1997 and 31.4 years in 1991.

41. Between 31 March 1997 and 31 March 1998, the number of children under 15 years of age increased by 6,140 or 0.7 per cent, from 854,220 to 860,360. The number of New Zealanders of working age (15 to 64 years) rose by 19,980 or 0.8 per cent to 2,486,380. However, their share of the total population fell slightly from 65.7 to 65.6 per cent. The population in the older working ages (45 to 64 years) increased by 2.8 per cent. The number of elderly New Zealanders (65 years and over) increased by 6,670 or 1.5 per cent, from 434,790 to 441,460. At 31 March 1998, half of elderly New Zealanders were more than 73.6 years of age.

Youth structure

42. At 31 March 1998 the under-20 age group was estimated at 1,131,960 or 29.9 per cent of the total New Zealand population. This continues the slowly declining trend in the proportion of youth in the total population. Within this group, under-five-year-olds increased marginally by 0.1 per cent, those aged five to nine increased by 0.3 per cent, 10- to 14-year-olds increased by 1.8 per cent and 15- to 19-year-olds increased by 0.2 per cent.

Percentage of population in rural areas and in urban areas

43. Although New Zealand is a predominantly rural country in terms of its land use, only 14.6 per cent of the population was estimated to be living in rural areas (defined as areas where the largest population centres contain less than 1,000 people) at 31 March 1998; 70 per cent of the population lives in main urban areas (which are areas with 30,000 people or more); another 15 per cent or so are urban but in secondary and minor urban areas with populations of under 30,000. Auckland's urban area is the single largest urban agglomeration, with an estimated population of 1,076,100. At the 1996 census, 269,643 or 27.2 per cent of Auckland's population belonged to neither the European or New Zealand Maori groups: Maori made up 11.8 per cent of the Auckland population.

Percentage of one-parent families with dependent children

44. At the 1996 census there were 168,255 one-parent families in New Zealand, of which 83 per cent were being maintained by a woman. Sole mother families made up 23 per cent of total families with dependent children (i.e. under 16 years, or between 16 and 18 years and still at school) in 1996. One parent families are still the fastest-growing category of families, rising by 10.9 per cent between 1991 and 1996.

II. GENERAL POLITICAL STRUCTURE

45. The supreme legislative body in New Zealand is the New Zealand Parliament, which comprises Her Majesty the Queen (who is usually represented by the Governor-General) and the single-chamber, 120-member, House of Representatives.

46. The principal functions of Parliament are:

(a) To make laws and delegate law-making powers to the Executive;

(b) To scrutinize and control government (annual grant of financial authority, scrutiny of delegated powers and functions);

(c) To provide a government; and

(d) To represent the people of New Zealand.

47. The Electoral Referendum Act 1991 provided for an indicative referendum on electoral reform. The referendum was divided into two parts. The first part asked voters to choose between electoral reform or maintaining the existing first past the post system. The second part of the ballot asked voters to indicate which of four options for electoral reform they preferred. The majority of voters indicated a preference for electoral reform and for mixed member proportional representation (MMP). MMP was introduced after the second and final binding referendum, held in conjunction with the 1993 general election.

48. The Electoral Act 1993 implements MMP. Under MMP, voters have a party vote and an electorate vote. The party vote enables the voter to choose what party they would like represented in Parliament. At 7 December 2000, there were 26 registered political parties. The electorate vote is for choosing a member of Parliament to represent the voter's electorate.

49. Under the MMP system, there will usually be 120 MPs. In the present Parliament, 61 MPs represent the 61 general electorates and 6 MPs represent the 6 Maori electorates. The remaining 53 MPs are list MPs. Every five years, the Representation Commission meets to determine the boundaries of general and Maori electorates. It is next due to meet in 2001. As a result of its work, the number of electorates may change for the next general election, which is due in 2002.

50. The Cabinet, all of whose members are elected members of the House of Representatives, supervises the administration of government. Cabinet, the public service and a number of bodies connected to government form the executive. Generally, each government department has an appointed minister as its political head. In addition, every department has a public servant as its administrative head.

51. The courts, which operate on an adversarial system, comprise the judicial branch of government. New Zealand's highest court is the Judicial Committee of the Privy Council, which sits in London as the final court of appeal for New Zealand. It considers on average about five criminal and civil New Zealand cases each year. Debate continues on the desirability of the

appeal link to the Privy Council. Beneath the Privy Council is the New Zealand Court of Appeal, which is the final court of appeal for most cases. Below the Court of Appeal is the High Court, which is New Zealand's only court of unlimited jurisdiction. It hears the most serious jury trials and civil cases, as well as administrative law cases.

52. Below the High Court are the District Courts. They deal with a large number of criminal and civil cases and conduct some jury trials. The Family Court, a division of the District Court, deals with matters of family law. In addition, there are a number of specialist courts and tribunals. In 1997, the Government of the day agreed to pilot a new judicial office in the District Court: community magistrates. Community magistrates are lay persons from local communities who hear minor and mostly undefended criminal matters. They may exercise the usual range of sentencing powers, except for imprisonment. An evaluation of the office was conducted in 2000. The Government is currently considering options for the future of the office.

53. The courts act as a curb on the power of the Government by ensuring that the Government acts in accordance with the law. However, since in the New Zealand system of government Parliament is supreme, the courts are bound by statute and cannot strike down the provisions of any Act of Parliament.

54. The laws of New Zealand consist of:

(a) The common law, sometimes referred to as "judge-made law", which has been developed by the courts of England and the courts of New Zealand; and

(b) Statute law enacted by the New Zealand Parliament. Parliament's power to make laws was preserved by section 15 (1) of the Constitution Act, 1986. Prior to the Constitution Act, this power was derived from the Statute of Westminster Adoption Act 1947, which gave the New Zealand Parliament sole authority to legislate for New Zealand. A small number of British statutes and subordinate legislation which were passed prior to 1947 are also declared to be part of the laws of New Zealand by the Imperial Laws Application Act 1988.

55. The common law relates to the interpretation of statute law and to developing the general law based on fundamental legal principles. Statute law includes Acts of Parliament and delegated legislation made under those Acts.

The Treaty of Waitangi

56. The Treaty of Waitangi, signed in 1840 between representatives of the British Crown and Maori hapu (sub-tribe) and iwi (tribe), established the legal basis for the settlement of New Zealand and protected the rights and properties of the indigenous Maori inhabitants.

57. The past decade and a half has seen greater prominence given to the Treaty of Waitangi as a basis for settling Maori claims against the Crown. Debate on the place and role of Maori people in New Zealand society has increased considerably and successive Governments have continued to develop their policies on Maori affairs.

58. The Waitangi Tribunal was established by the Treaty of Waitangi Act 1975 to make recommendations to the Crown on claims relating to the Treaty. A 1985 amendment allowed for claims to be retrospective to the signing of the Treaty in 1840.

59. The work of courts and the Waitangi Tribunal is developing the contemporary meaning of the Treaty. This work is wide-ranging and is having a profound and continuing influence on the way New Zealand is learning to see itself. The Crown recognizes the Treaty as the founding document of the nation, and the Treaty is now widely accepted as the most important instrument in the continuing evolution of the Treaty partnership between the Crown and Maori. As the Waitangi Tribunal says to describe its work: "The Treaty is always speaking".

60. Further to the establishment of the Waitangi Tribunal, a special Office of Treaty Settlements was established on 1 January 1995 under the Minister in Charge of Treaty of Waitangi Negotiations. The aim of the office is to give better focus to government objectives to resolve historical Treaty of Waitangi claims.

61. In a landmark Court of Appeal case in 1987 the special relationship between the Maori people and the Crown was interpreted by the Court as requiring the Treaty partners to act reasonably and with the most utmost good faith towards each other. A number of Acts of Parliament now require the Crown to have regard to the principles of the Treaty of Waitangi, or to Maori interests or a Maori perspective. Successive governments have negotiated with iwi to attempt to resolve grievances concerning breaches of the Treaty.

62. There have been important developments in the process of settling claims relating to historical grievances. In 1995 a settlement worth $170 million in land and monetary compensation, as well as a Crown apology, was negotiated with the Waikato/Tainui iwi of the North Island of New Zealand for their claim concerning land confiscated in the nineteenth century. In 1996 a Heads of Agreement was reached with the Ngai Tahu iwi of the South Island in settlement of their extensive claim. A Deed of Settlement with a monetary value of $170 million was agreed with Ngai Tahu in late 1997 and included a Crown apology and redress to recognize Ngai Tahu's interests in particular sites and species. In each case, the negotiated settlement was ratified by the respective iwi and has been brought into effect through the enactment of settlement legislation by the New Zealand Parliament.

63. Progress has continued to be made towards the settlement of the many outstanding historical Treaty claims in the North Island. In 1999 Heads of Agreement were signed with three of the eight generally recognized iwi of the Taranaki region: Ngati Ruanui ($41 million); Ngati Tama ($14.5 million); and Ngati Mutunga ($14.5 million). In 1999 the Crown was working towards a Deed of Settlement with these three iwi, as well as the Ngati Awa iwi who signed a Heads of Agreement in 1998. The Crown is also in negotiations to reach Heads of Agreement with a number of other iwi.

64. The settlement of two major claims and several smaller ones has clearly demonstrated to all New Zealanders, Maori and non-Maori alike, that the settlement process, although controversial and time consuming, is working and justifies the commitment of successive governments. As to specific financial results, the Minister in Charge of Treaty of Waitangi Negotiations reported to Parliament that, as at mid-1997, the Crown had expended

NZS 392.13 million from Vote: Treaty Negotiations on Treaty Settlements with Maori. By November 1999 NZS 522.7 million has been committed to full and final settlements, with an additional NZS 8.1 million paid as claimant funding separate from the negotiated settlement redress.

65. The Crown is committed to fulfilling its obligations as a Treaty partner. The settlement of historical grievances is a necessary part of establishing ongoing healthy Crown/Maori relationships. However, the Crown recognizes that, while the settlement process is important, it should not be seen as the primary focus or mechanism for encouraging that relationship in the future. It will continue the significant progress already made in negotiating and implementing fair, durable and affordable settlements of historical grievances; and improving the social and economic status of Maori. In order to achieve this goal, the Government aims to extend economic and social opportunities by significantly improving the health, employment, education and housing status of Maori. This emphasis on the management and development of healthy relationships reflects the underlying purpose of the Treaty of Waitangi: to establish a basis on which two quite different peoples could live together harmoniously and to mutual advantage. The current Ministry of Maori Development, Te Puni Kokiri, was established in 1992, replacing earlier government bodies dealing with Maori affairs. Te Puni Kokiri's role is to provide advice on the Crown's relationship with Maori and to promote higher levels of achievement for Maori by improving education, health and economic opportunities. The Ministry of Women's Affairs, through its Maori women's policy unit, Te Ohu Whakatupu, gives advice to the Government on the status of Maori women and the impact of government policy on them.

III. GENERAL LEGAL STRUCTURE WITHIN WHICH HUMAN RIGHTS ARE PROTECTED

A. Judicial, administrative or other competent authorities with jurisdiction affecting human rights

66. The key pieces of legislation in this regard are described in the following paragraphs.

The New Zealand Bill of Rights Act 1990

67. This Act was designed to affirm, protect and promote human rights and fundamental freedoms in New Zealand and to affirm New Zealand's commitment to the International Covenant on Civil and Political Rights. The Act applies to acts done by the legislative, executive or judicial branches of the Government of New Zealand or by any person or body in the performance of any public function, power or duty conferred or imposed on that person or body by or pursuant to the law. The Attorney-General is required, on the introduction of a bill, to bring to Parliament's attention any provision that appears to be inconsistent with any of the rights and freedoms contained in the Bill of Rights. The Court of Appeal has held that an action against the Crown for damages is available in respect of breaches of rights and freedoms in the New Zealand Bill of Rights Act 1990.

The Human Rights Act 1993

68. This legislation, which came into force on 1 February 1994 replaced the Human Rights Commission Act 1977 and the Race Relations Act 1971. It:

(a) Amalgamated the provisions of the Race Relations Act 1971 and the Human Rights Commission Act 1977 to make the law clearer and easier to understand. The remedies remain, but the different procedures are clarified;

(b) Provided for the restructuring of the Human Rights Commission to make it more effective. A Complaints Division, which includes the Race Relations Conciliator, was established to handle complaints of a breach of Part II of the Act. In line with New Zealand's commitment as a party to the International Convention on the Elimination of all Forms of Racial Discrimination, the Race Relations Conciliator continues to retain special responsibility for race matters;

(c) Added six new grounds on which discrimination is prohibited. Building on those grounds already contained in the Human Rights Commission Act 1977 and the Race Relations Act 1971, these include colour, race, ethnic or national origin, sex, marital status, age, religious or ethical belief, disability (including the presence in the body of organisms capable of causing illness), political opinion, employment status, family status and sexual orientation. The Act provides that discriminatory actions or omissions are unlawful in seven broad areas if based on a prohibited ground. These areas are: employment; partnerships; actions of industrial and professional associations, qualifying bodies and vocational training bodies; public access to places, vehicles and facilities; provision of goods and services; provision of land, housing and other accommodation; and access to educational institutions. The Human Rights Act 1993 also contains provisions relating to racial disharmony, sexual harassment and racial harassment;

(d) Introduced some new procedures to assist with the resolution of complaints, such as compulsory conciliation;

(e) Provided for the Human Rights Commission to inquire into any matter, whether governmental or non-governmental, if it appears to it that human rights are being, or may be, infringed. The Human Rights Commission continues to report to the Prime Minister on any matter affecting human rights, including the desirability of further legislative, administrative or other action to protect human rights or ensure better compliance with standards in international human instruments, or acceptance by New Zealand of any international instrument on human rights;

(f) Required the Human Rights Commission to examine all the Acts and regulations that are in force in New Zealand, and any policy or administrative practice of the Government, and to report to the Minister of Justice before the end of 1998 on any conflicts with the provisions of the Human Rights Act, or any infringements of the spirit or intention of the Act.

69. Following fulfilment of the requirement referred to in paragraph 68 (f) above, the Human Rights Amendment Act came into force on 1 October 1999. This legislation:

Defers the repeal of section 151 of the Human Rights Act 1993 and section 126 B of the Social Security Act 1964 until 31 December 2001. Section 151 of the Human Rights Act provides that the Act does not affect any other Act or regulation in force in New Zealand, and provides government with an exemption from the six "new" grounds of discrimination. Section 126B of the Social Security Act limits government liability for breaches of the Human Rights Act 1993 and the Human Rights Commission Act 1977 on the grounds of sex and marital status in the provision of income support;

Provides that the Minister of Justice is to report to the House six-monthly on progress across government in addressing legislative inconsistencies with the Human Rights Act, with the first report being tabled by 30 June 2000 and the final tabled by 31 December 2001;

Provides that the Human Rights Commission is to be given 21 days in which to provide comment on the Minister's report (with such comment being tabled in the House along with the report); and

Provides that certain age-linked retirement benefits in existing employment contracts are to be preserved.

The key measure in the bill is the extension of the life of section 151 of the Human Rights Act. The rationale for this is that the Government's current legal position in relation to the Human Rights Act should be preserved for a further two years to allow a reasonable amount of time in which the difficult issues surrounding government compliance can be addressed.

70. In November 2000, the Cabinet agreed in principle to require all ministries and departments to recommence identifying, assessing and addressing inconsistencies between the Human Rights Act and all Acts, regulations, policies and practices. A new interdepartmental audit process incorporating four streams of work was approved in December 2000. This process is known as Compliance 2001 and will be undertaken with the involvement of the independent Human Rights Commission. The aim of the process is to remedy significant inconsistencies between the Human Rights Act and other Acts, regulations, policies and practices by 31 December 2001, at which time section 151 of the Human Rights Act is currently due to expire. The four streams of work are:

Stream one: social services entitlements. Relevant ministries and departments are to address possible inconsistencies in legislation, policies and practices that concern the provision of core social services.

Stream two: other significant issues. Ministries and departments are to identify and formulate proposals to address other significant legislative inconsistencies with the Human Rights Act.

Stream three: minor issues. Ministries and departments are to address minor legislative inconsistencies through their own legislative programmes.

Stream four: policies and practices (other than core social services). All ministries and departments are to identify their policies and practices that do and do not comply with the Human Rights Act. If inconsistencies are identified, the relevant ministry or department must set out the proposed process for remedying the inconsistency.

71. In April 2000, the Government commissioned an independent ministerial re-evaluation of human rights protections in New Zealand. The key findings of the independent re-evaluation were that:

Existing human rights institutions in New Zealand are fragmented and their small size and governance structures have led to particular funding and operational difficulties;

New Zealand's human rights obligations, and in particular the relationship between the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993, are not well understood by the public, politicians or many government departments;

There is a need for greater public education and debate regarding New Zealand's domestic and international human rights obligations so that they can be better considered and more realistically applied in both the public and private sector.

As a result, the independent advisers recommended four general strategic directions:

The establishment of a new national human rights institution to focus on strategic leadership, education and advocacy work. The new institution would incorporate the Human Rights Commission and the Race Relations Conciliator (and possibly other human rights institutions at a later date, such as the Health and Disability Commissioner and the Commissioner for Children);

Law changes to clarify the roles of the Bill of Rights Act, the Human Rights Act and their application to government actions;

Improving the incorporation of human rights considerations in the development of government policy and legislation;

The development of a National Plan of Action for the promotion and protection of human rights in New Zealand.

Ombudsman Act 1975

72. This Act provides for the appointment of Ombudsmen by the Governor-General on the recommendation of the House of Representatives. The Ombudsmen investigate any decision or recommendation made, or any act done or omitted, relating to a matter of administration and affecting any person or body of persons in her, his, or its personal capacity by any of the bodies listed in the Schedules to the Act. These investigations occur on a complaint from any person or

an Ombudsman's own motion. An Ombudsman may make such recommendations as she or he thinks fit and report these to the appropriate department or organization and the Minister of Justice (if relevant). If the requested action is not taken within a reasonable time, then the report may be sent to the Prime Minister and reported to the House of Representatives.

73. When new bodies are created by statute, consideration is given to the desirability of including them in the Schedules to the Ombudsmen Act 1975 and the Official Information Act 1982.

Official Information Act 1982

74. This Act is designed to make official information more freely available, to protect that official information to the extent consistent with the public interest and preservation of personal privacy, and to establish procedures for those purposes. What is official information is widely defined by section 2 of the Act and the bodies to which the Act is applicable are listed in schedules to the Act and the Ombudsmen Act. Generally ministers, government departments and all agencies of government are subject to the Act. Official information is to be made available unless there is a good reason (as defined by the Act) to withhold it.

75. Individuals and some bodies corporate may request bodies listed in the Schedules to make official information available. The Ombudsmen can investigate and review any refusal by a department, minister or organization to make official information available once requested. They then report to the relevant body with any recommendations. Departments and ministers have a public duty to observe any recommendation unless the Governor-General, by Order in Council, directs otherwise. It is possible for the person who made the original request to review the making of such an Order in Council in the High Court and to appeal to the Court of Appeal.

76. The Local Government Official Information and Meetings Act 1987 is a similar statute relating to official information held by local government authorities and public bodies.

Privacy Act 1993

77. Amongst other things, this Act:

(a) Carries forward from the Privacy Commissioner Act 1991 the provisions establishing the Privacy Commissioner and making the Commissioner a member of the Human Rights Commission;

(b) Establishes 12 information privacy principles with respect to:

(i) The collection, retention, use and disclosure, by public and private sector agencies, of information relating to individuals; and

(ii) Access by each individual to information relating to that individual and held by public and private sector agencies;

(c) Establishes four public register privacy principles which regulate the manner by which personal information may be accessed from public registers;

(d) Applies the principles to both the public and private sectors;

(e) Gives the Privacy Commissioner jurisdiction to grant exemptions from some of the principles, principally by way of codes of practice;

(f) Sets out controls on information-matching to apply to statutory matching provisions implemented by the public sector; and

(g) Enables individuals to complain to the Privacy Commissioner if they believe their privacy has been infringed. The focus of this Privacy Act is on the resolution of complaints by the Privacy Commissioner, securing a settlement wherever possible. However, civil proceedings before the Complaints Review Tribunal are available where a complaint is not resolved;

(h) Empowers the Privacy Commissioner to perform a general monitoring and reporting function in relation to policy and legislative proposals with privacy implications.

Police Complaints Authority Act 1988

78. This Act is to make better provision for the investigation and resolution of complaints against the police by establishing an independent Police Complaints Authority. The Authority can receive and investigate complaints about the police and investigate any apparently related misconduct, practice, policy or procedure. It then conveys its opinion and recommendations to the Police Commissioner. If no action is taken, the opinion and recommendations may be sent to the Attorney-General and Minister of Police and, where appropriate, tabled in the House of Representatives.

Children, Young Persons and Their Families Act 1989

79. This Act established, among other things, the post of Commissioner for Children. The Commissioner has broad-ranging functions which are aimed at promoting and ensuring the welfare of children and young people. The Convention on the Rights of the Child is used as a basis for this work.

Health and Disability Commissioner Act 1994

80. The Health and Disability Commissioner was established by section 8 of the above Act. The Commissioner is responsible for promoting and protecting the rights of health and disability service consumers through public education activities and the resolution of complaints. The rights themselves are outlined in the Code of Health and Disability Services Consumers' Rights, a regulation under the Act which came into effect in July 1996.

81. The Human Rights Commission, the Race Relations Conciliator, the Privacy Commissioner and the Police Complaints Authority report annually to the Minister of Justice on the exercise of their functions under their Acts. These reports are tabled in Parliament by the Minister after receipt. The Ombudsmen report annually to the House of Representatives.

B. Remedies available to an individual who claims that any of his or her rights have been violated, and the systems of compensation and rehabilitation that exist for victims

82. An individual who considers that any of his or her rights protected by the Human Rights Act 1993 have been violated may complain to the Human Rights Commission or the Race Relations Office. If the matter is within jurisdiction, the claim may be investigated and settled by conciliation.

83. The Human Rights Act 1993 focuses on the conciliation of complaints of discrimination. However, where conciliation fails, civil proceedings can be brought before the Complaints Review Tribunal (formerly the Equal Opportunities Tribunal). The Tribunal has jurisdiction to make a range of orders, including orders restraining or directing certain conduct, and to make interim orders to preserve the position between parties pending resolution of a complaint. The Tribunal may award damages for pecuniary loss or injury to feelings and has a discretion to award such other relief as it thinks fit. If appropriate, the Tribunal may issue restraining orders against the repetition of any act or omission which was the subject of the complaint.

84. Complaints Review Tribunal decisions may be appealed to the High Court, whose decision is final, or to the Court of Appeal on a point of law.

85. The Employment Tribunal and Employment Court also have some jurisdiction in relation to personal grievance claims and claims concerning a breach of an employment contract. Matters covered by personal grievance procedures include claims of unjustified dismissal, discrimination in particular areas, unjustifiable action by an employer, sexual harassment and duress in relation to membership or non-membership of an employees' organization. It is not possible both to complain to the Commission and to make a personal grievance complaint. Decisions of the Employment Tribunal can be appealed to the Employment Court.

86. Finally, under sections 131 and 134 of the Human Rights Act, the District Court has jurisdiction over the offences of inciting racial disharmony and of refusing access on discriminatory grounds to a public place, vehicle or facility respectively. Such prosecutions may be instituted only with the consent of the Attorney-General.

87. New Zealand citizens may also avail themselves of the complaint provisions under the individual communication procedure contained in the first Optional Protocol to the International Covenant on Civil and Political Rights. The Government has recently announced that the necessary steps will be taken to enable New Zealand to become party to the recently concluded Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), thus enabling individual complaints in respect of CEDAW to be taken to the CEDAW Committee. New Zealand has also made the declaration under article 22 of the

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment recognizing the competence of the Committee against Torture to receive communications from individuals subject to its jurisdiction.

C. Protection of the rights referred to in the various human rights Instruments either in the Constitution or by a separate Bill of Rights and provisions made in the Constitution or Bill of Rights for derogations

88. New Zealand does not have a single constitutional document. The constitutional framework comprises the Constitution Act 1986 and a number of statutory provisions and common law rules. How these legal powers are exercised is determined by constitutional "conventions", a series of rules which, albeit unwritten, are accepted as binding by constitutional actors. This framework is erected on and maintained by the ordinary law and not through the operation of a supreme or basic law such as that found in other jurisdictions. For this reason, although New Zealand does have a Bill of Rights, which was enacted in the New Zealand Bill of Rights Act 1990, it is not an entrenched Bill of Rights. The rights and freedoms contained within that Act are subject to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society. Wherever an enactment can be given meaning that is consistent with the rights and freedoms contained in the Bill of Rights, that meaning shall be preferred by the courts to any other meaning. The courts, however, have no power to strike down legislation on the basis of inconsistency with the Bill of Rights. The Act provides for a mechanism whereby the Attorney-General reports to Parliament any inconsistency of proposed legislation with the Bill of Rights.

D. How human rights instruments are made part of the national legal system

89. International agreements do not automatically become part of the law of New Zealand simply by the process of ratification, accession or acceptance of a treaty. For an international agreement to have domestic effect either its provisions must be reflected already in New Zealand's existing law or new legislation must be enacted. Before becoming a party to an international human rights instrument, therefore, the Government reviews New Zealand's domestic law to see what additional legislation, or amendments to existing legislation, might be necessary to ensure the full and effective implementation of the agreement in New Zealand law, or whether reservations might be necessary.

E. Whether the provisions of the various human rights instruments can be invoked before, or directly enforced by, the courts, other tribunals or administrative authorities or whether they must be transformed into internal laws or administrative regulations in order to be enforced by the authorities concerned

90. Generally, for an individual to found a direct cause of action on rights protected by international human rights instruments, the right needs to be incorporated into domestic statute law (e.g. New Zealand Bill of Rights Act 1990). Where the wording of a statute permits it,

the courts will interpret the statute in a way which is consistent with, and gives effect to, international law. Failure to consider relevant international instruments renders a decision-maker liable to judicial review for failure to consider relevant considerations.

F. Institutions or national machinery with responsibility for overseeing the implementation of human rights

91. As noted in section A above, the Human Rights Commission has responsibilities in the area of human rights generally and the Race Relations Conciliator and the Privacy Commissioner have responsibilities in respect of racial discrimination and privacy respectively. A Commissioner for Children, established under the Children, Young Persons and Their Families Act 1989, has responsibility in the area of welfare of children and young persons.

IV. INFORMATION AND PUBLICITY

92. Since 1977, the New Zealand Human Rights Commission has been endowed with a statutory duty to "promote, by education and publicity, respect for and observance of human rights". The Race Relations Conciliator also has this role in relation to race, and the Privacy Commissioner with regard to the promotion and protection of individual privacy.

93. Since that time, the Commission has continued to take this statutory responsibility seriously - Commissioners and employees raise awareness and provide information about the Commission and the Human Rights Act in their everyday work. In addition, the Commission has a dedicated education team which targets those groups most likely to be discriminated against and those most likely to discriminate. Each education officer works with particular sectors of the community - the public sector, the private sector and the community sector. Human rights information and education is provided in a range of forms, including printed information, oral presentations (such as training workshops and conferences), community workshops, cassette and video tapes, and the Commission's website. The Race Relations Office has a significant education team and carries out the same type of functions as the Human Rights Commission in relation to race.

94. The Ministry of Foreign Affairs and Trade is responsible for coordinating the preparation of New Zealand's periodic reports to the United Nations human rights treaty bodies. The Ministry of Women's Affairs and the Ministry of Youth Affairs draft the reports under the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child.

95. Summaries of the United Nations human rights treaty bodies' consideration of New Zealand's periodic reports, including the specific questions of the Committees, have been published by the Ministry of Foreign Affairs and Trade and are available free of charge to the public. In commemoration of the fiftieth anniversary of the Universal Declaration of Human Rights, the Government produced the *New Zealand Handbook on International Human Rights*. The text was published to provide an introduction for New Zealanders wanting to know more about the international human rights framework.

- - - - -